

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Angela F. Piccini,

Plaintiff,

-v-

Commissioner of Social Security,

Defendant.

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ELECTRONICALLY FILED
DOC. #: _____
DATE FILED **SEP 17 2014**

13-cv-3461 (AJN) (SN)

ORDER

ALISON J. NATHAN, District Judge:

Plaintiff Angela Piccini, proceeding *pro se*, brings this action seeking judicial review of the final determination of the Commissioner of Social Security (“Commissioner”) denying her application for disability insurance benefits. On January 13, 2014, the Commissioner moved for judgment on the pleadings, pursuant to Rule 12(c) of the Federal Rules of Civil Procedure. Dkt. No. 19. Plaintiff did not oppose the motion.

On June 27, 2014, the Honorable Sarah Netburn, United States Magistrate Judge, issued a report and recommendation (“R & R”) recommending that the Court deny the Commissioner’s motion and remand the case. Dkt. No. 22. In particular, Magistrate Judge Netburn determined that the ALJ committed legal error by improperly “conflat[ing] the substance abuse analysis with the disability determination itself,” and by “afford[ing] [Plaintiff’s] treating physician’s opinion little weight because the physician ‘disregarded [Plaintiff’s] admittedly pervasive alcohol and polysubstance abuse history in arriving at his assessment.’” Dkt. No. 22, at 27, 28. No objections to the R & R were filed.

A district court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). In the absence of any objections, a district court reviews the R & R for clear error. *See Tarafa v. Artus*, No. 10-cv-

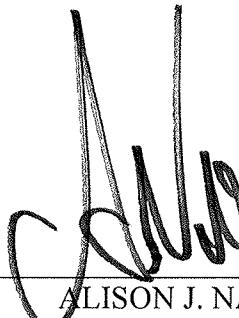
3870 (AJN) (HBP), 2013 WL 3789089, at *2 (S.D.N.Y. July 18, 2013) (citing *Gomez v. Brown*, 655 F. Supp. 2d 332, 341 (S.D.N.Y. 2009)).

Because no objections were filed by the Commissioner, the Court reviewed for plain error. Upon review, the Court finds no clear error on the face of the record. Accordingly, the Court adopts the R & R in its entirety and denies the Commissioner's motion for judgment on the pleadings, for the reasons set forth in the R & R. The matter is remanded to the Commissioner for further administrative proceedings consistent with this Order. The Clerk of Court is directed to enter judgment.

SO ORDERED.

This resolves Dkt. No. 19.

Dated: September 14, 2014
New York, New York



ALISON J. NATHAN
United States District Judge